

SENATE BILL 2141  
By Herron

AN ACT to amend Tennessee Code Annotated, Title 50,  
Chapter 6, relative to workers' compensation  
coverage of contractors and subcontractors.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-113, is amended by deleting  
such section in its entirety and by substituting instead the following:

Section 50-6-113.

(a) A subcontractor shall be liable for compensation to any employee  
injured while in the employ of such subcontractor of a principal, intermediate  
contractor or subcontractor, and engaged upon the subject matter of a contract.

(b) A principal, or intermediate contractor, or subcontractor shall not be  
liable to pay compensation to the injured employee of another subcontractor or  
intermediate contractor.

(c) Every claim for compensation under this section shall be presented to  
and instituted against the immediate employer. An employee of a subcontractor  
shall have no right to recover compensation under this chapter from the principal  
or intermediate contractor.

(d) This section applies only in cases where the injury occurred on, in, or  
about the premises on which the subcontractor has undertaken to execute work  
or which are otherwise under the subcontractor's control or management.

(e) A subcontractor under contract to a general contractor may elect to  
be covered under any policy of workers' compensation insurance insuring the  
contractor upon written agreement of the contractor, by filing written notice

thereof, on a form prescribed by the commissioner of labor and workforce development, with the division of workers' compensation. It is the responsibility of the general contractor to file such written notice with the division. Failure of the general contractor to file such written notice shall not operate to relieve or alter the obligation of an insurance company to provide coverage to a subcontractor when such subcontractor can produce evidence of payment of premiums to the insurance company for such coverage. Such election shall in no way terminate or affect the independent contractor status of the subcontractor for any other purpose than to permit workers' compensation coverage. Such election of coverage may be terminated by the subcontractor or general contractor by providing written notice of such termination to the division and to all other parties consenting to the prior election. Such termination shall be effective thirty (30) days from the date of such notice to all other parties consenting to the prior election and to the division.

(f)

(1) Except as provided in subdivision (f)(4), any person engaged in the construction industry, including principal contractors, intermediate contractors, or subcontractors, shall be required to carry workers' compensation insurance. This requirement shall apply whether or not the person employs fewer than five (5) employees. Sole proprietors and partners shall not be required to carry workers' compensation insurance on themselves. In addition, the provisions of this subsection shall not apply to any person building a dwelling or other structure, or performing maintenance, repairs, or making additions to structures, on the person's own property for the person's own use and for which the person receives no compensation.

(2) Nothing within this subsection shall be construed to impact any person whose employment at the time of injury is casual as provided in § 50-6-106.

(3) For purposes of this subsection, "a person engaged in the construction industry" means any person or entity who undertakes to, attempts to, or submits a price or bid or offers to construct, supervise, superintend, oversee, schedule, direct, or in any manner assume charge of the construction, alteration, repair, improvement, movement, demolition, putting up, tearing down, or furnishing labor to install material or equipment for any building, highway, road, railroad, sewer, grading, excavation, pipeline, public utility structure, project development, housing, housing development, improvement, or any other construction undertaking.

(4) The provisions of this subsection do not apply in counties having a population according to the 1990 federal census or any subsequent federal census of not less than six thousand seven hundred (6,700) nor more than six thousand nine hundred fifty (6,950) and not less than forty-four thousand five hundred (44,500) nor more than forty-five thousand (45,000).

SECTION 2. This act shall take effect July 1, 2005, the public welfare requiring it. This act shall apply to claims arising on and after July 1, 2005.